IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 413 of 1988

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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PARESH BANSILAL SHROFF - Appellant(s)
Versus
MAITRAYEE LAXMIDAS SHROFF - Defendant(s)

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Appearance :
MR MC BHATT for Appellant(s) : 1,
MR MB GANDHI for Defendant(s) : 1,
MRS TRUSHA M GANDHI for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 27/07/2006

ORAL JUDGMENT

1. By way of this appeal the appellant has challenged the judgement and decree passed by City Civil Court, Ahmedabad, in Hindu Marriage Petition No. 310 of 1985 whereby the petition is allowed.

2. The short fact of the case are that present defendant got married with the appellant on 28.04.1974 at Ahmedabad, according to Hindu religious rites. Out of wedlock a son was born. With the passage of time defendant came to know that the

appellant has developed certain vices and he was very irregular in attending his work, used to come very late at night and appellant had least affection for the baby-boy. It is alleged that on insistence by the appellant, defendant used to take part in parties and functions and he used to be very suspicious about her character without any rhyme or reason.

2.1 However, the appellant restricted her. In 1979 she initially started serving as a teacher in Uttan School. In December 1983 there was a serious quarrel between him and the appellant cast serious allegations against her character which followed the appellant tried to throttle her and ultimately her parents were required to intervene and for the time being she was taken to her father's place.

2.2 On 28th August, 1985 she wrote a letter in detail to the appellant stating her grievances and requesting him not to harass her any more and not follow her at her place of service. The letter was not replied by the appellant. She sent a reminder letter on 25.9.1985 to the appellant that was also

not replied. The present defendant's allegation is that apart from causing tremendous mental and physical cruelty to her, he created such a situation in the matrimonial home whereby she had no other alternative but to leave the home along with her child and hence the appellant has not only treated her cruelly mentally and physically but has also deserted her and hence on the two-fold grounds of both cruelty and desertion she had prayed for a decree of divorce against the appellant.

3. Mr. M.C. Bhatt, learned advocate for the appellant has submitted that the Trial Court has committed an error in granting divorce on the ground of desertion and on cruelty and taking liquor at friend's place which the wife of the appellant has alleged against him.

4. Mr. Gandhi, learned advocate for the respondent contended that the order of the Trial Court is just and proper and there is no reason to reverse the finding of the Trial Court.

5. On perusal of the documents placed on record it appears that about the character of the wife reproduced as under was seriously alleged before the trial court:

> ".....The second point which was pressed by the petitioner on the ground of cruelty was that the respondent used to make serious allegations against petitioner's character. It is her say that he was of a very suspicious nature and he used to make reckless allegations against her character. She has stated reckless alleged that Abhijit is not his son and it is this allegation which has hurt her most."

6. Therefore, the allegation of character is required to be viewed very seriously and the view taken by the Trial Court on that ground is required to be accepted. Moreover, the trial court in para 13 has mentioned that prior to commencement of the trial a number of efforts were made to bring reconciliation between the parties as neither of them was interested in the same. Further, the point of alternative relief of decree of judicial separation was also considered by the trial court but the same was not proceeded with by observing that granting of judicial separation will only amount to directing the parties to file another litigation without any fruitful remedy as there was no love or affection left between the parties of each other.

7. As a result of the perusal of records, I am of the

opinion that the appellant after solemnisation of the marriage with the respondent has emitted cruelty of a very grave nature on her by making reckless allegation of unchastity against her apart from the physical cruelty which is quite evident from the evidence produced. However, the argument that the present appellant used to take liquor cannot be a ground for divorce but the enormous amount of mental and physical torture meted out to the original petitioner cannot be denied to be a ground for divorce. I am in complete agreement with the reasonings adopted and findings arrived at by the trial court and no interference is required in the matter.

8. Mr. Gandhi, learned advocate for the respondent presses for costs of the petition. The same is rejected.

9. The appeal is therefore dismissed. No order as to costs.

(K.S.JHAVERI, J.)

Suresh*